

Updates Concerning Lead Based Paint Issues and Down Payment Assistance

First, we want to congratulate all those who have made the necessary changes when confronting the new lead based paint rules that have been administered by HUD. The rule itself can be somewhat confusing and as we learn new information, we hope to keep you informed of changes as they occur.

As you are already aware, for all those homes receiving Down Payment Assistance and for those built before 1978, there are rules developed by HUD that we must follow. As a result, the MRB-11 was developed. When filling out that form, the Visual Assessment is taken directly off the appraisal. If the inspector makes a note of peeling or chipping paint, then the home fails the visual assessment. You simply mark the fail box and write down the date the appraisal was completed. If the home passes the visual, then simply mark the pass box and the date of the appraisal.

If the property fails the visual, then there are two options that are available. The first consists of getting a paint chip test on the area of chipping paint. If the test comes back negative, then anyone can fix the peeling paint. If the test comes back positive, meaning the test showed levels of lead that exceed HUD standards, then the peeling paint must be fixed by certified lead people who follow "Safe Work Practices". Upon having the peeling paint fixed, a company independent of the company (lead certified) that fixed the peeling paint must come in and do a Clearance Test. This involves doing dust wipes and insuring that clean up of the property was done correctly. There is a section on the MRB-11 for the Clearance Test. The clearance test or any paint chip test performed needs to have an interpretation of the results. We are not certified risk assessors and are not trained to interpret the laboratory results. Please have the company that you use provide us with something in writing telling us whether or not the property passed or failed.

As mentioned earlier, your first option was to have a paint chip test done on the peeling paint. Your second option is to "Assume" that there is a high level of lead. When choosing this option, a paint chip test is not necessary however, lead certified people must perform the paint stabilization of the chipping area following "Safe Work Practices". As mentioned in the above paragraph, a company independent of the company that performed the lead paint stabilization must give the property a clearance test. Again, we need to be provided with documentation from the company you choose that will tell us if the home passed or failed the clearance test.

Recently, we have learned new interpretations of the HUD rule, which you can view on their website at www.hud.gov/lea. The new information we have learned deals with what is called De Minimus lead levels. This is taken from the HUD rule 50222 Federal Register/ Vol. 64 No.178 section 35.1345. It says, "Safe Work practices are not required when maintenance or hazard reduction activities do not disturb painted surfaces that total more than:

- (1) 20 square feet (2 square meters) on **exterior surfaces**
- (2) 2 square feet (0.2 square meters) in any one interior room or space; or

- (3) 10 percent of the total surface area on an interior or exterior type of component with a small surface area. Examples include windowsills, baseboards, and trim.

Basically, if the chipping area fits into any of these three rules, then the home can be fixed by anyone and Safe Work Practices do not have to be followed. As a result, a lead certified company does not have to be used. On the MRB-11, the home would still fail the visual assessment however; a clearance test would not be required. A note can be placed at the bottom of the MRB-11 along with providing us documentation by the appraiser or someone certified that can show the chipping area meets the guideline or guidelines mentioned above.

Hopefully, this information proves to be beneficial to you and helps you in processing your loans at a more expedient fashion. We realize that the new HUD rules can be somewhat confusing and frustrating but the ultimate goal is to help children and individuals living in the homes live more healthy and productive lives.